

presumption at law so that statements taken in a certain period would be presumed to have been under duress and, therefore, inadmissible as evidence, unless certain conditions were met. A rebuttable presumption, by the way, is not a hard and fast rule. It is not a firm obligation. It is not like the original elements of the bill which were a flat prohibition against settlements and statement taking. Rather, it says statements can be taken, but if they are taken without meeting the conditions of the bill, you will at the time of hearing have to prove that they were not made under duress. The burden will fall to the plaintiff to show that those or, rather, the defendant to show that those statements were taken in a noncoercive demeanor and situation. So, the bill, the amendment now on lines 9, 10, and 11 of the Journal entry indicate the kinds of statements that are not covered by the bill: Insurance claims forms, so those can be processed quickly. Medical authorizations, which often serve to help the person who was injured. Personal injury or accident report forms which are completed when an adverse party is not present. In other words, I leave a report form for you, an accident form, and I am not in your presence standing over your shoulder telling you how to fill it out. If I leave that report form for you to fill out, that report form is not covered by this amendment. However, if we have a statement being taken within 30 days of a personal injury that does not meet those three standards, then there will be a rebuttable presumption that the statement is under duress unless certain things happen. In other words, if a company or an employer wants to take a statement, they can without this rebuttable presumption but to do that they need to do this. The adverse party needs to take the statement and disclose that if they are a representative of a defendant that they indicate who they represent, that the injured person may make the statement in the presence of counsel or another representative, that a copy of the statement is available at no cost to the injured person once they have completed the statement. If those conditions are met, then the statement that is taken does not carry the rebuttable presumption. To conclude, there are four circumstances by which a defendant in a personal injury accident can use a statement made by an injured party made within the first 30 days. Those are, the three kinds of statements, insurance claims forms, medical authorizations, or personal injury forms completed not in the presence of the adverse party, those three situations, or in which the statement is made to the adverse party with a recognition of who the adverse party is and who they represent, that they can make that statement in the